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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-second session

SUMMARY RECORD OF THE 567th MEETING

Held at Headquarters, New York,
on Tuesday, 30 March 1993, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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The meeting was called to order at 10.55 a.m.

PARTICIPATION BY NON-MEMBER STATES

1. The CHAIRMAN said that Bolivia had asked to participate in the work of the Subcommittee, and recalled that the Committee on the Peaceful Uses of Outer Space had the prerogative of granting observer status, given which he suggested that the Subcommittee should not take any formal decision on the matter but that, if there was no objection, the representatives of Bolivia might attend formal meetings of the Subcommittee and might direct to the Chair a request for the floor if they wished to make a statement.

It was so decided.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (continued)

2. Mr. REY (Colombia) said that his delegation wished to submit formally to the Legal Subcommittee a proposal on the geostationary satellite orbit which reflected views expressed at the current session of the Committee on the Peaceful Uses of Outer Space.

3. In 1988 Colombia had first submitted a new proposal on the geostationary satellite orbit and in 1991 had drafted a non-paper, endorsed by the Group of 77, which had been circulated to members of the Subcommittee and subsequently reflected in its reports. The proposal now being formally introduced derived from that non-paper.

4. The text of the proposal comprised two parts. The first part was a preamble in which, inter alia, the geostationary satellite orbit was acknowledged to be a limited natural resource which, accordingly, must be used rationally and equitably for the benefit of mankind as a whole, taking into account the special needs of the developing countries, in accordance with the provisions of the relevant international treaties on telecommunications. It should be noted, in particular, that the concept of equity was not arbitrary, but derived from a series of international instruments expounding that concept rather than that of equality. That meant that the preamble did not incorporate new terms, but recognized norms of positive law. Further, the physical nature of the geostationary orbit was agreed, in that it formed part of outer space and was thus governed by the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. Nevertheless, since the physical characteristics of the orbit determined its specific qualities, it was appropriate to apply to it an ad hoc legal regime with the aim of ensuring equity, which was currently lacking, through specific preferential rights. The proposal did not suggest an ad hoc legal regime for the geostationary orbit as a whole, but sought to resolve a specific problem concerning access to the same position or to neighbouring positions within the orbit.

(Mr. Rey, Colombia)

5. The second part of the proposal set forth a series of measures to attain that objective. Criteria were established to determine who would enjoy a preferential right to have access to an orbital position, and the reserving of orbital positions and frequencies was recommended to meet the needs of the developing countries.

6. It should be noted that all the recommendations in his delegation's proposal would apply only if there were no existing regimes established by ITU, in other words, they applied to the orbital frequency bands not covered by the relevant international agreements.

7. Lastly, he trusted that the members of the Subcommittee would carefully analyse the proposal in the hope of resolving the impasse in the work of the Working Group on the geostationary orbit.

8. Mr. ZAWELS (Argentina) said that the Subcommittee should continue its productive work on the progressive formulation of an international legal regime that would take account of the interests of the developed and developing countries.

9. Given its nature and consequences for the modern world, the question of the delimitation of outer space could not be further postponed. It should be recalled that the law governing airspace, with its inherent characteristics concerning sovereignty, territorial integrity and the security of States, was very different to that relating to outer space. In that connection his delegation particularly appreciated the working paper on the legal regime for aerospace objects submitted by the Russian Federation at the Subcommittee's thirty-first session (A/AC.105/C.2/L.189), which had led to a proposal by various delegations regarding a questionnaire to be sent to Member States.

10. Further, the non-paper that some members of the Group of 77 had submitted in 1992 on the geostationary satellite orbit had inspired a constructive debate, which had been reflected in paragraph 5 of General Assembly resolution 47/67. In his view the non-paper would facilitate a consensus on tackling, as a complement to the work of the International Telecommunication Union, the question of the geostationary satellite orbit.

11. Without prejudice to the future inclusion of a new item in the Committee's agenda, his delegation reiterated its interest in making a start on the analysis of questions relating to space debris in the geostationary orbit, since equitable future access to the orbit would largely depend on the measures taken thenceforth to prevent the proliferation of space debris.

12. Mr. GONZALEZ (Chile) said that there had been a substantial legal and political shift concerning the matters covered by item 4 of the Subcommittee's agenda, as indicated by General Assembly resolution 47/67. The change was also reflected in the non-paper by the Chairman of the Working Group containing the draft questionnaire on aerospace objects, the aim of which, in his view, was to complement the working paper submitted by the Russian Federation at the previous session (A/AC.105/C.2/L.189).

(Mr. Gonzalez, Chile)

13. The document submitted by the Chairman of the Working Group, along with the Mexican proposals, would help to establish a framework which would definitively resolve the question of the definition and delimitation of outer space and the character and utilization of the geostationary orbit, progress on which had so often been stalled owing to a lack of political will on the part of delegations. Many of them had now assisted in structuring the draft questionnaire, in what was an important change in position, which his delegation welcomed.

14. His delegation also welcomed the sound proposal by Colombia to transform the non-paper on the geostationary orbit into a working paper, and trusted that it would be supported.

The meeting rose at 11.30 a.m.